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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

DEL COTTO, GREGORY R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,997

Applicant(s)

LANG ET AL.

Examiner

Gregory R. Del Cotto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/31/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-9 are pending. Applicant's amendments and arguments filed 10/31/05 have been entered. Claims 10-16 have been canceled.

Objections/Rejections Withdrawn

The following objections/rejections as set forth in the Office action mailed 8/25/05 have been withdrawn:

The rejection of claims 1-7 and 10 under 35 U.S.C. 103(a) as being unpatentable over WO 01/00767 has been withdrawn.

The rejection of claims 1, 2, 4, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber et al (US 4,634,544) has been withdrawn.

The rejection of claims 1-5 and 7-10 under 35 U.S.C. 103(a) as being unpatentable over Panandiker et al (US 6,596,678) has been withdrawn.

The rejection of claims 8 and 9 under 35 U.S.C. 103(a) as being unpatentable over WO 01/00767 as applied to claims 1-7, and 10 above, and further in view of Panandiker et al (US 6,596,678) has been withdrawn.

The rejection of claim 6 under 35 U.S.C. 103(a) as being unpatentable over Panandiker et al (US 6,596,678) as applied to claims 1-5 and 7-10 above, and further in view of WO 01/00767 has been withdrawn.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Note that, with respect to instant claim 1, the specification, as originally filed, provides no basis for "dicyanodiamine" as recited by instant claim 1. Thus, this is deemed new matter. For purposes of examination, the Examiner has interpreted "dicyanodiamine" to be "dicyanodiamide" since Applicant has indicated in the response that claim 11 has been incorporated into claim 1; claim 1 recited cyanoamide and claim 11 was interpreted to mean dicyanodiamide in the previous action as stated in paragraphs 1 and 5 of the specification. Note that, claims 2-9 have also been rejected due to their dependency on claim 1.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is vague and indefinite in that the claim recites dye fixatives while the only dye fixative listed by the claims is one obtained by reacting

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dicyanodiamide with ethylenediamine and formaldehyde. It would be unclear to one of ordinary skill in the art if more than one dye fixative is required or what other dye fixative would be required, especially in light of the fact that the claim recites "consisting of" which would exclude all other ingredients not listed. For purposes of examination, the Examiner has interpreted claim 1 to require only one dye fixative which is the reaction product of dicyanodiamine with ethylenediamine and formaldehyde; "consisting of" exclude the presence of other ingredients not specifically listed.

With respect to claims 2-9, these claims are vague and indefinite in that they recite the language "comprising" while instant claim 1 recites "consisting of"; it would be unclear to one of ordinary skill in the art as to whether claims 2-9 permit the inclusion of other ingredients with respect to "comprising" or exclude all other ingredients not specifically listed with respect to "consisting of". For purposes of examination, the Examiner has interpreted claim 2, for example, to read "... in claim 1, wherein said laundry detergent consists of said dye transfer-inhibiting dye fixative and nonionic surfactants". Note that, claims 3-9 have been similarly interpreted. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohringer et al (US 4,301,217).

Rohringer et al teach a process for flameproofing wood which comprises treating the wood with aqueous preparations which contain at least one water-soluble ammonium salt of a nonvolatile inorganic acid, e.g., ammonium sulfate or ammonium phosphate; and at least one water-soluble cationic reaction product of dicyandiamide, formaldehyde, and optionally an ammonium salt and/or an alkylenepolyamine containing at most 18 carbon atoms, or the acid salt thereof. Components (a) and (b) are applied in succession or preferably simultaneously and the wood is subsequently dried. See Abstract. Specifically, the reaction products are the products of dicyanodiamide, formaldehyde, and ethylenediamine. See column 2, lines 30-50. Note that, the Examiner asserts that the water-soluble ammonium salt of a nonvolatile inorganic acid as taught by Rohringer et al. Rohringer et al disclose the claimed invention with sufficient specificity to constitute anticipation.

Accordingly, the teachings of Rohringer et al anticipate the material limitations of the instant claims.

Conclusion

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2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gregory R. Del Cotto

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Primary Examiner
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GRD
December 1, 2005